



SENATOR RODNEY ELLIS
District 13

The Senate of The State of Texas

COMMITTEES:

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August 8, 1997

Honorable Dan Morales
Attorney General
P.O. Box 12548
Austin, TX 78711-2548

Opinion Committee

RQ-986

FILE # ML-39722-97
I.D. # 39722

Re: Request for Opinion concerning Powers of Creating Political Subdivisions and
Status of Sports and Community Venue District under Chapter 335, Texas
Local Government Coder

Dear General Morales:

I am writing to request an opinion from your office concerning the extent of Houston City Council involvement allowed in the affairs of a sport and community venue district under newly adopted Chapter 335, Texas Local Government Code (H.B. 92) concurrently created by Houston and Harris County ("Sports Authority"). Upon its creation effective September 1, 1997, the district will be an independent political subdivision.

At the time of its creation questions were raised by City Council Members as to whether the concurrent order creating Sports Authority might give City Council the formal power of appointment or right of confirmation for members of the Board of Directors of the Sports Authority. Several questions were also raised as to whether the concurrent order might contain other provisions, such as requiring that City Council approve any change orders for the Authority's contracts, placing restrictions on future lease agreements to be entered into by the Authority and granting City Council general oversight responsibilities in addition to its power to approve the issuance of bonds and other obligations by the Authority.

The concurrent order finally adopted did not contain the requested provisions based on the advice of the City Attorney that the City Council could not formally participate in the Board appointment process and could not exercise powers not authorized by H.B. 92. The City Attorney further advised the City Council that, unless authorized by the Legislature, to allow for City Council confirmation of Mayoral appointees would imply a right to veto those appointees contrary to the statute and the Authority may not allow City Council formal involvement in its actions without rendering those acts subject to attack as *ultra vires*.

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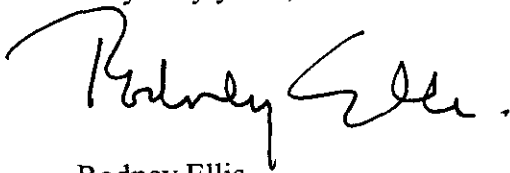
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Honorable Dan Morales
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In light of the significant public interests in the creation of the new Authority and its operations and to assure conformity with the law, I respectfully request that your office render an opinion on these questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Rodney Ellis", with a stylized flourish at the end.

Rodney Ellis

RE:kd